

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION**

Wendy Williams,

Plaintiff,

v.

Eddie T. Johnson and the Police Board
of the City of Chicago,

Defendants.

Case No. 2019 CH 596

Calendar 2

Courtroom 2601

Judge Raymond W. Mitchell

ORDER

This case is before the Court on Plaintiff Wendy Williams' petition for administrative review of the Police Board of the City of Chicago administrative decision of December 13, 2018.¹

I.

On January 25, 2018, the Superintendent of the Chicago Police Department filed disciplinary charges before the Police Board of the City of Chicago, seeking to terminate Plaintiff for making false reports. The charges relate to Plaintiff's conduct while working as a call taker in CPD's Alternate Response Section. The charges allege that Plaintiff generated numerous fictitious original case incident reports, which document incidents that were not actually reported to the call center. (R. 24-26).

Hearing was conducted before the Police Board on September 18, October 16, and October 17, 2018, and evidence was presented. On December 13, 2018 the Police Board found Plaintiff's generation of fictitious reports violated Rules 2 and 14 of the Chicago Police Department Rules. The Police Board determined that termination was an appropriate penalty.

II.

Under the Administrative Review Law, judicial review of an agency decision extends to "all questions of law and fact presented by the entire record before the court." 735 ILCS 5/3-110. The standard of review depends upon whether the issue presented is one of fact, law, or a mixed question of law and fact." *AFM Messenger*

¹ This is an amended order issued for the purpose of correcting scrivener's errors in the Court's Order of September 16, 2019. Upon the timely joint application of the parties, the Order of September 16, 2019 is withdrawn and replaced by this Order.

Service, Inc. v. Dept'f of Employment Security, 198 Ill. 2d 380, 390 (2001). An agency's factual findings are considered to be *prima facie* correct and are only reversed if against the manifest weight of the evidence. 735 ILCS 5/3-110. *Lyon v. Dep't of Children & Family Servs.*, 209 Ill. 2d 264, 271 (2004). Questions of law are reviewed *de novo*. *AFM Messenger Serv. Inc.*, 198 Ill. 2d at 390. A mixed question of law and fact asks the legal effect of a given set of facts and is reviewed under a "clearly erroneous" standard. *City of Belvidere v. Illinois State Labor Rels. Board*, 181 Ill. 2d 191, 205 (1998).

The reviewing court's review of an agency's decision to terminate an employee is a two-step process. *Lopez*, 2018 IL App (1st) 170733, ¶ 68. First, a court must determine whether the agency's findings of fact are contrary to the manifest weight of the evidence." *Id.* "The second step in [the court's] analysis is to determine if the [administrative board's] findings of fact provide a sufficient basis for its conclusion that cause for discharge exists." *Id.*

Police Board's Factual Findings. The Police Board heard testimony from numerous witnesses including the officers who investigated the charges against Plaintiff. Among the detailed testimony the Police Board considered was the testimony of Sgt. Jesse Terrazas who indicated he counseled Plaintiff on her work performance on June 6, 2016, with another supervisor present. (R. 572). Terrazas testified that Plaintiff's computer was in a "not ready" status for over an hour, indicating that Plaintiff was not taking calls although she was not on a scheduled break. (R. 572, 575-576). Terrazas further testified that he read Plaintiff a statement of performance concern and observed Plaintiff sign the report. (R. 575-576). Plaintiff admitted that her signature appears on the report, which was admitted into evidence. (R. 793).

Sergeant David DeMato, the floor supervisor of the non-emergency call center additionally testified before the Police Board. (R. 161). DeMato testified that he was assigned to Plaintiff's unit after he had been stripped of his police powers. (R. 297). DeMato testified he conducted an audit of Plaintiff's calls conducted on June 7, 9, and 13, 2016 to ensure they were handled properly. (R. 205, 208). DeMato testified that he did not hear any calls that corresponded to the eight lost property reports generated by Plaintiff. (R. 265, 276, 279). DeMato testified another officer searched the phone numbers associated with the lost property reports and could not locate any entries in the computer system to establish that the respective numbers contacted Plaintiff's unit. (R. 211-212). The police reports generated by plaintiff and the officer's call audit report were entered into evidence. (R. 815).

DeMato further testified that he called the phone numbers associated with the lost property police reports, but could not reach any of the numbers associated with the lost property reports. Several of the numbers were not working telephone numbers. DeMato also attempted to verify the "occurrence location" as noted on the

eight lost property reports. DeMato found that google maps search of the locations did not match the locations described on the police reports. (R. 242, 243, 256, 269, 273, 280, 284, 288). For example, several of the reports described the items lost at bus stops, but the occurrence locations reported were not near any bus stops. *Id.* The map searches were additionally admitted into evidence before the Police Board.

In addition, Sgt. Christ Tsoukals of CPD's BIA investigated the police reports made by Plaintiff. (R. 481-482). Tsoukals testified that he listened to every audio recording and interviewed Plaintiff regarding the allegations against her. (R. 483-484, 505-506). The Superintendent also called Brandyn Smith, an employee of the company that manufactured the recording equipment, which recorded the calls. Smith testified that single call cannot be deleted or missed. He further testified that it was "very unlikely" individual sporadic calls could go missing from the recording system. (R. 459, 461-462, 464-66, 475).

Plaintiff testified before the Police Board. Plaintiff testified that she understood there were allegations pertaining to her making false reports, but had no explanation for her name being on the police reports. (R. 685). Plaintiff also testified that officer Terrazas had previously made an inappropriate comment to her, which Terrazas denied. (R. 588, 688). Plaintiff additionally presented three character witnesses who provided testimony on her behalf. Retired CPD Officer Travelle Stewart testified to Plaintiff's honesty, and CPD member Steven Dyor testified that Plaintiff is truthful, honest, and a hard worker. CPD worker Inez Riley, a close friend of Plaintiff, testified that Plaintiff is honest, hardworking, and has integrity. Lastly, Plaintiff called Dr. Jennifer Swoyer and Dr. Laura McGee Otunde who testified to Plaintiffs' medical history, including her treatment for anxiety, depression, migraines, and post-traumatic stress disorder.

In considering the testimony and admitted evidence, the Police Board found that Plaintiff prepared ten false reports generated on June 7, 9, and 13, 2016. (R. 4). The Police Board found Plaintiff "not credible" and rejected her argument that the documentary evidence presented resulted from computer system errors or the conduct of other officers. (R. 4, 6). The Police Board found the testimony of Tsoukals, and DeMato convincing and corroborated by the admitted documentary evidence. (R. 6) This Court will not disturb the Police Board's credibility determinations. *See Lopez* 2018 IL App (1st) 170733, ¶ 72. The Police Board's determination that Plaintiff violated Rules 2 and 14 by generating false police reports is not against the manifest weight of the evidence.

DeMato's Disciplinary Charges. Plaintiff argues that the Police Board improperly relied on DeMato's testimony without knowing he was under investigation for lying by the Chicago Police Department. ² The Police Board

² Plaintiff's motion to supplement the record was granted in the Court's May 16, 2019, Order.

allowed Plaintiff to establish that DeMato's police powers were stripped, but did not permit Plaintiff to refer to Rule 14, or the nature of the charges against him. Subsequent to Plaintiff's hearing, DeMato was served with a notification of charges resulting from the ongoing investigation against him. The notification stated that "DeMato lied" but did not indicate a rule 14 violation. This newly discovered evidence does not support a remand to the agency. The Police Board relied on the testimony of several testifying officers, along with DeMato, and significant documentary evidence in making its factual findings. Moreover, the impeachment evidence does not involve a substantive issue pertaining to the charges against Plaintiff.

Police Board's Termination Decision. Plaintiff contends that the Police Board's factual findings do not form a sufficient basis for its conclusion that cause for discharge exists. Illinois courts define cause as "some substantial shortcoming that renders the employee's continued employment in some way detrimental to the discipline and efficiency of the service..." *Lopez*, 2018 IL App (1st) 170733, ¶ 75. The Police Board has considerable latitude and discretion in determining what constitutes cause for discharge. *McDermott v. City of Chicago Police Board*, 2016 IL App (1st) 151979, ¶ 34. A courts review is "limited to a determination of whether the Board acted unreasonably or arbitrarily by selecting a type of discipline that was inappropriate or unrelated to the needs of the service." *Id.* at ¶ 35.

Here, the Police Board's finding that cause for discharge exists was determined in the context of ten false police reports produced by Plaintiff. Plaintiff argues that progressive discipline should have been imposed, and the Police Board failed to account for mitigating evidence presented at the hearing. However, the "Board is not required to give mitigating evidence sufficient weight to overcome a termination decision." *Id.* at ¶ 36. Moreover, progressive discipline is not mandated. The Police Board determined that Plaintiff's intentional fabrication of police reports "is antithetical to that expected and required of a police officer, who at all times has a duty to act with honesty and integrity, not fabricate reports in the course of one's official duties." (R. 11). The Court will not disturb the Police Board's determination that cause for discharge exists.

III.

Therefore, it is hereby ORDERED

- (1) The Police Board of the City of Chicago's administrative decision of December 13, 2018, is affirmed. Judgment is entered in favor of Defendants.
- (2) This is a final order that disposes of the case in its entirety.

Judge Raymond W. Mitchell

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ENTERED,

Circuit Court – 1992



Judge Raymond W. Mitchell, No. 1992